

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN THE MATTER OF:)
)
YELLOW BLUFF DEVELOPMENT, LLC) CHAPTER 11 CASE NO. 09-40019-JSD
)
Debtor)
)

APPLICATION FOR LEAVE TO SELL REAL PROPERTY AT PRIVATE SALE

1. **Yellow Bluff Development, LLC**, debtor and debtor in possession in the captioned case, (“Applicant”), does hereby apply to the Court for leave to sell at **PRIVATE SALE** the following described parcel of real property and the improvements thereon:

All that certain lot, tract or parcel of land situate, lying and being in the 1359th G.M. District of Liberty County, Georgia, being known and designated as Lot No. 14 Yellow Bluff Subdivision, containing 0.17 of an acre, more or less, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, bearing a plat date of May 20, 2005, and being recorded in Plat Section N-86, Page 2A, in the office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes. Said lot of land being bounded, now or formerly, as follows: Northeasterly by Yellowbluff S/D, Phase II; Southeasterly by Lot No. 15; Southwesterly by 60' R/W of Yellow Bluff Drive; and Northwesterly by Lot No. 13 of said subdivision, all as shown on the above referred to plat of survey.

This property is commonly known Lot 14 of Yellow Bluff Subdivision, Midway, Georgia.

2. Applicant requests Court approval to sell this property at **PRIVATE SALE** to **Bradley J. Franklin and Lori Anne Franklin**, for **\$84,000.00**, cash, free and clear of liens, with valid liens only to attach to the proceeds of the sale. (A deposit of \$2,000.00 was paid to Applicant on March 18, 2011, upon execution of the Purchase and Sale Agreement)

3. Applicant states the property is fully encumbered by a first deed to secure debt in favor of The Heritage Bank, which has agreed to release the subject property in exchange for a payment of \$75,600.00, less an amount that is equal to one-half (1/2) of the total amount of ad valorem taxes due Liberty County, Georgia, on the subject property, for the years 2006, 2007, 2008, 2010 and the pro-rated amount due at closing for 2011.
4. Applicant shows there are (estimated) ad valorem taxes due to Liberty County Tax Commissioner for 2006, 2007, and 2008 in the amount of \$4,101.94. Applicant also shows there are (estimated) ad valorem taxes due to the Liberty County Tax Commissioner for 2010 in the amount of \$1,006.01, and pro-rated taxes due for 2011 in the amount of \$488.36. The exact payout will be the amount due and owing the Liberty County Tax Commissioner at the time of closing, which amount will be paid in full at such time, one-half (1/2) by The Heritage Bank as stated above and the remaining one-half (1/2) by Applicant.
5. Applicant shows there is an impact fee due W&D Investments, Inc. ("W&D") in the amount of \$1,500.00 as provided for in that certain contract between Applicant and W&D, dated October 18, 2006, pursuant to which W&D provides water and sewage treatment to the subject real property. This amount will be paid to W&D at closing by buyers.
6. There is no sales commission due on this sale.
7. A copy of the Purchase and Sale Agreement underlying the proposed sale is attached hereto as Exhibit "A", and the terms and conditions contained therein are hereby incorporated by

reference.

8. Applicant considers the sale as proposed to be in the best interests of the estate and creditors, and accordingly, that it should be approved.
9. Applicant requests that notice be given to creditors and parties in interest of this application for leave to sell and that the Court direct that objections and requests for a hearing before the Bankruptcy Judge, if any, to the sale as proposed, must be in writing and filed with the Clerk of the Bankruptcy Court, Post Office Box 8347, Savannah, Georgia 31412, and served upon the Applicant's attorney, James L. Drake, Jr., at Post Office Box 9945, Savannah, Georgia 31412, within such time as the Court shall fix, and further that any objections not timely filed and served be deemed waived.
10. Applicant further requests that the Court in its discretion take such other action or provide such other relief as it deems equitable or appropriate.

DATED at Savannah, Georgia, this 12th day of May, 2011.

s/ James L. Drake, Jr.

JAMES L. DRAKE, JR.
Attorney for Yellow Bluff Development, LLC /
Applicant

Prepared by:
JAMES L. DRAKE, JR.
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CERTIFICATE OF SERVICE

This is to certify that I have this date served the foregoing, **APPLICATION FOR LEAVE TO SELL REAL PROPERTY AT PRIVATE SALE**, through CM/ECF or by depositing same in the United States Mail with sufficient postage affixed thereon, to those addressed below:

Matthew E. Mills
Asst. U.S. Trustee
Commerce Building
222 W. Oglethorpe Avenue
Suite 302
Savannah, GA 31401

The Heritage Bank
Attn: Jim Floyd
P.O. Box 1009
Hinesville, GA 31310

Robert M. Cunningham
GILBERT, HARRELL,
SUMERFORD & MARTIN, P.C.
Attorney for W&D Investments, Inc.
PO Box 190
Brunswick, GA 31521

This the 12th day of May, 2011.

s/ James L. Drake, Jr.
JAMES L. DRAKE, JR.
Attorney for
Yellow Bluff Development, LLC

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